

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

**IN RE: INTERCONTINENTAL
TERMINALS COMPANY LLC
DEER PARK FIRE LITIGATION**

§ **Lead Case No. 4:19-cv-01460**
§
§ **Related Case No. 4:20-cv-00814**

AGREED MOTION TO DISMISS WITH PREJUDICE

Pursuant to Federal Rule of Civil Procedure 41, Plaintiff Kirby Inland Marine, LP (“Kirby”) and Defendant Intercontinental Terminals Company LLC (“ITC”) respectfully move the Court to enter an Agreed Order of Dismissal that Kirby’s claims against ITC be dismissed, with prejudice.

On February 6, 2020, Kirby filed its Original Petition in Harris County District Court. On March 6, 2020, ITC removed the case to the U.S. District Court for the Southern District of Texas. On April 7, 2020, this Court consolidated the case into Lead Case No. 4:19-cv-01460.

Kirby and ITC respectfully request that the Court dismiss, with prejudice, all of Kirby’s claims asserted against ITC in the aforementioned petition because all matters in controversy between Kirby and ITC in this suit have been resolved, and there is no further need or occasion for the prosecution of Kirby’s claims against ITC. Kirby and ITC further agree that taxable costs are to be borne by the party incurring same.

In accordance with the Court’s Order Establishing Common Benefit Fund (the “Common Benefit Order”) (DE 1117), Co-Lead Counsel for Plaintiffs have been consulted in connection with the resolution of this lawsuit, and all assessments owed, whether for Common Benefit Attorneys’

Fees, General Expenses, or Liability-Related Common Benefit Expenses, will be paid in accordance with the Common Benefit Order.

Dated: June 13, 2023

Respectfully submitted,

SHIPLEY SNELL MONTGOMERY LLP

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ATTORNEY-IN-CHARGE FOR PLAINTIFF
KIRBY INLAND MARINE, LP

Dated: June 13, 2023

Respectfully submitted,

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ATTORNEYS FOR INTERCONTINENTAL
TERMINALS COMPANY LLC

CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of June, 2023, a copy of the foregoing pleading was served upon all counsel of record by electronic transmission via the Court's CM/ECF system.

s/ J. Alan Harrell

J. Alan Harrell